



United States Attorney  
Southern District of New York

The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

March 5, 2020

**BY ECF**

The Honorable Jesse M. Furman  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, New York 10007

**Re:    *United States v. Michael Avenatti, 19 Cr. 374 (JMF)***

Dear Judge Furman:

The Government respectfully writes to advise the Court that the parties have conferred and agreed to a schedule with respect to the exchange of certain material and information prior to and during trial. The schedule is as follows:

- March 13, 2020:      The parties provide notice to each other, consistent with the requirements of Federal Rule of Criminal Procedure 16, of experts potentially to be called, if any, during the Government's case-in-chief and the defendant's case.
- March 20, 2020:      The parties provide notice to each other, consistent with the requirements of Rule 16, of rebuttal experts, if any. The Government also provides notice to the defendant of evidence it may seek to offer pursuant to Federal Rule of Evidence 404(b).
- April 10, 2020:      The Government provides to the defendant a list of exhibits the Government reasonably expects to seek to introduce during its case-in-chief. This exhibit list will be subject to good-faith revision as the Government continues to prepare its case for trial, including in response to the defense's list of proposed exhibits that it anticipates seeking to introduce into evidence during the Government's case-in-chief. The Government also provides to the defendant a list of witnesses whom the Government reasonably expects to call in its case-in-chief.
- April 14, 2020:      The Government provides to the defendant material covered by 18 U.S.C. § 3500.
- April 15, 2020:      Defense counsel provides to the Government a list of exhibits that the defendant reasonably expects to introduce during the

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Government's case-in-chief. This exhibit list will be subject to good-faith revision as the defense continues to prepare for its case.

At least five business days prior to the anticipated start of a defense case: Defense counsel provides to the Government material covered by Federal Rule of Criminal Procedure 26.2.

At least three business days prior to the anticipated start of a defense case: Defense counsel provides the Government a list of exhibits that the reasonably expects to seek to introduce during his case. This exhibit list will be subject to good-faith revision as the defense continues to prepare for its case.

The parties recognize that 3500 and Rule 26.2 obligations are continuing, so when new material is generated after the pertinent deadline described above, such material will be timely provided, *i.e.*, generally the same day it is generated, and prior to the witness to whom it applies next taking the stand. The defense has also agreed that, consistent with Rule 26.2(c), if the defense intends to withhold any such material on the ground of privilege or work-product, it will provide that material to the Court for timely review.

In addition to the schedule above, the parties have also conferred and reached agreement regarding the following issues, which are designed to narrow or moot disputes, specifically: (1) attempting in good faith to share any proposed summary chart at least one week before it will be sought to be introduced, notwithstanding the foregoing, to permit the opposing party to review the accuracy of the chart; (2) sharing any visuals or slides to be used in opening statements, at least one business day before such statements; and (3) alerting the opposing party to (a) the next day's witnesses, in anticipated order, and (b) the exhibits expected to be sought to be introduced through those witnesses, by at least 5:00 p.m. on the day before calling such witnesses, and the party to whom such disclosure is made will provide any objections to such exhibits as quickly as possible that evening, so that the parties may confer and then be prepared, if necessary, to raise any objections with the Court in the morning, prior to the beginning of the trial day during which the exhibits are expected to be sought to be introduced.

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Finally, both the Government and the defense anticipate timely agreeing to stipulations to avoid the need to call custodians of records or otherwise to authenticate evidence or the accuracy of transcripts, and the parties agree that the dates set forth herein do not alter the parties' reciprocal discovery obligations or the obligation to produce materials obtained pursuant to Federal Rule of Criminal Procedure 17(c), absent an order to the contrary.

Respectfully submitted,

GEOFFREY S. BERMAN  
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By:

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